

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

Philip R. McHugh,

Plaintiff,

v.

Fifth Third Bancorp., et al.,

Defendants.

Case No. 1:21-cv-00238

Judge Michael R. Barrett

ORDER

This matter is before the Court on the Motion to Compel Production of Plaintiff's Microsoft Outlook Calendar (by Plaintiff Philip R. McHugh) (Doc. 20), as well as Plaintiff's request for production of calendar data from Defendant Fifth Third Bank employees Greg Carmichael (also a named Defendant), Bob Shaffer, and Tim Spence.

To resolve the questions presented, the undersigned enlisted the help of a colleague, Judge Douglas R. Cole, who has an extensive background in electronic discovery. Judge Cole conducted an in-person discovery conference (see 09/12/2023 Minute Entry & Transcript of Proceedings, Doc. 35), at which time he asked Ryan Bosselman, Defendants' eDiscovery expert from UnitedLex, to report back as to the feasibility of a proposed solution. Defendants' counsel timely submitted Mr. Bosselman's report (via Chambers email on September 19, 2023) to Judge Cole as well as to the undersigned. Plaintiff's counsel responded (via Chambers email on September 20, 2023). The undersigned has consulted with Judge Cole and reviewed the Transcript of Proceedings, Mr. Bosselman's report, and the letters from counsel, all of which inform the Court's ruling.

Plaintiff's Motion to Compel (Doc. 20) is **GRANTED**, such that Defendants shall provide to Plaintiff, in native .PST format, a copy of the Plaintiff's Outlook calendar data

file for the requested date range. Defendants shall also provide an identical copy of that file to the Court, which the Court will maintain to allow it to investigate any allegations that Plaintiff has manipulated the data file after receipt, should such allegations arise. The Court **DEFERS** ruling on Plaintiff's request for payment of reasonable attorneys' fees and expenses associated with its Motion.

As to the second issue, because Defendants have produced a substantial amount of data already in response to search terms that Plaintiff proposed, and as it appears that Plaintiff has not yet engaged eDiscovery consultants to fully explore how Plaintiff may be able to make use of such data, Plaintiff shall retain an eDiscovery consultant to meet and confer with Defendant's eDiscovery consultant to explore ways in which Plaintiff can use the already-produced data to adequately re-construct the calendars for the indicated Fifth Third employees. The eDiscovery consultants shall provide a joint report, or if they cannot reach agreement, two individual reports, to the Court **on or before October 13, 2023** detailing their efforts to confer and the results of those efforts. At that point, the Court will consider whether further relief is warranted as to the calendars for those employees.

IT IS SO ORDERED.

/s/ Michael R. Barrett
JUDGE MICHAEL R. BARRETT